

REMARKS

In an Office Action mailed January 11, 2012, claims 8-15 were rejected under 35 U.S.C. § 112, second paragraph; claims 1-3, 6 and 7 were rejected under 35 U.S.C. § 103(a) as unpatentable over Rhea in view of Prinkey, Dutta and Fedyk; claims 4 and 5 were rejected under 35 U.S.C. § 103(a) as unpatentable over Rhea in view of Prinkey, Dutta, Fedyk and Lee; claims 11-14 and 16-19 were rejected under 35 U.S.C. § 103(a) as unpatentable over Rhea in view of Fedyk and Prinkey; claims 15 and 25 were rejected under 35 U.S.C. § 103(a) as unpatentable over Rhea in view of Fedyk and Dutta; and claim 20 was rejected under 35 U.S.C. § 103(a) as unpatentable over Rhea in view of Prinkey, Fedyk and Dutta.

Regarding the § 112, second paragraph rejections of claims 8-15, guidelines published in the Federal Register for determining compliance with 35 U.S.C. § 112 state, "a claim limitation that does not use the phrase 'means for' or the phrase 'step for' will trigger the rebuttable presumption that § 112, ¶6 does not apply." Supplementary Examination Guidelines for Determining Compliance with 35 U.S.C. 112 and for Treatment of Related Issues in Patent Applications, 76 Fed. Reg. 7162, 7167 (Feb. 9, 2011)." The guidelines further state, "this presumption is a strong one that is not easily overcome." *Id.* Moreover, the guidelines state, that the sixth paragraph of § 112 "will not apply if persons of ordinary skill in the art reading the specification understand the term to be the name for the structure that performs the function, even when the term covers a broad class of structures or identifies the structures by their function." *Id.*

Applicant respectfully submits that in view of the explicit claim language of claim 8, which does not recite "means for" or "step for," the Office Action fails to meet the burden of overcoming the strong rebuttable presumption that the sixth paragraph of § 112 does not apply, especially when 1. the skilled artisan would understand that the term "processor" has achieved recognition as a noun denoting structure; and 2. the specification explicitly recites that the labeled "processor 702" of Fig. 7 is a central processor (CPU) 702." See, for example, Fig.7 and Specification, para. no. [0069]. Therefore, for at least these reasons, Applicant respectfully requests reconsideration of the § 112, second paragraph rejections of independent claim 8 and claims 9-15, which depend therefrom.

Regarding the § 103 rejection of independent claim 1, to make a determination under 35 U.S.C. § 103, several basic factual inquiries must be performed, including determining the scope and content of the prior art, and ascertaining the differences between the prior art and the claims at issue. *Graham v. John Deere Co.*, 383 U.S. 1, 17, 148 U.S.P.Q. 459 (1965). Moreover, as the U.S. Supreme Court held, it is important to identify a reason that would have prompted a person of ordinary skill in the art to combine reference teachings in the manner that the claimed invention does. *KSR International Co. v. Teleflex, Inc.*, 127 S. Ct. 1727, 1741, 82 U.S.P.Q.2d 1385 (2007).

Claim 1 recites, for a given node of the plurality of nodes, evaluating other nodes of the plurality of nodes that are connected to the given node based on Bloom-filters and incentive-based criteria to select one or more of the other nodes to propagate a search expression, where the incentive-based criteria includes one or more of a connection bandwidth and a reliability.

As apparently conceded in the Office Action (*see* Office Action, p. 6), neither Rhea, Prinkey nor Dutta discloses or renders obvious selecting a node to propagate a search expression based on an incentive-based criteria, which includes one or more of a connection bandwidth and a reliability. For these missing elements, the Office Action relies on Fedyk. Office Action, p. 6.

Fedyk, however, fails to disclose or render obvious the missing elements. In this regard, the Office Action relies on Fedyk as follows:

Fedyk shows an incentive-based criteria comprising a connection bandwidth (see Fig. 3; col. 3, lines 48-59; col. 4, line 61 to col. 5, line 13; and col. 6, lines 4-18).

Office Action, p. 6. Applicant respectfully submits, however, that the cited language from Fedyk merely discloses that link parameters may be communicated in a setup message, which specifies a minimum amount of bandwidth permitted within the link:

After the path is selected, the process then continues to step 302, in which the initialization module 25 generates a setup message having required link parameters including, among other things, a minimum amount of bandwidth permitted within a link 18 between any two intervening nodes 16 in the network 10, and a label conventionally utilized in MPLS networks. The label may be generated by the label module 30 in accord with conventional MPLS processes, while the minimum bandwidth may be generated by the path management module 33 based upon any number of variables, including the type of data being

transmitted. For example, high priority data may require a relatively high minimum bandwidth to ensure that such data is reliably transmitted to the destination node 14. Other data in a setup message may include the addresses of the source and destination nodes 12 and 14, and node addresses that map to the MPLS label. Once generated, the setup message is transmitted to the nodes along the selected path. In preferred embodiments, the setup message is a control plane message.

Fedyk, 4:59-67 and 5:1-13. Fedyk does not, however, disclose or render obvious selecting a node to propagate a search expression based on incentive-based criteria that includes a connection bandwidth. In this regard, Fedyk is explicit that the path that is selected, "preferably is the shortest path of a plurality of available paths between the source and destination nodes 12 and 14." Fedyk, 4:55-58.

As the Office Action merely presumes the existence of the missing elements in Fedyk, no plausible reason has been advanced to explain why the skilled artisan would have otherwise derived the missing claim elements.

Thus, Applicant respectfully requests withdrawal of the § 103 rejection of independent claim 1.

Applicant respectfully requests withdrawal of the § 103 rejections of independent claims 8, 16 and 24 for similar reasons. In this regard, in all of these § 103 rejections, the Office Action relies on Fedyk for the purported disclosure of selecting a node to propagate a search expression based on an incentive-based criteria that includes a connection bandwidth. However, for at least the reasons that are set forth above, Fedyk fails to disclose or render obvious these missing claim elements. In this manner, the system of independent claim 8 recites a processing unit arranged evaluate other nodes based on incentive-based criteria that includes a connection bandwidth; independent claim 16 recites instructions that are executable on a processor for evaluating other nodes connected to the given node to select nodes to propagate a search expression based on incentive-based criteria that includes a connection bandwidth; and the system of independent claim 24 includes at least one central processing unit adapted to for a given node of the plurality of nodes, evaluate other nodes based on incentive-based criteria that includes a connection bandwidth.

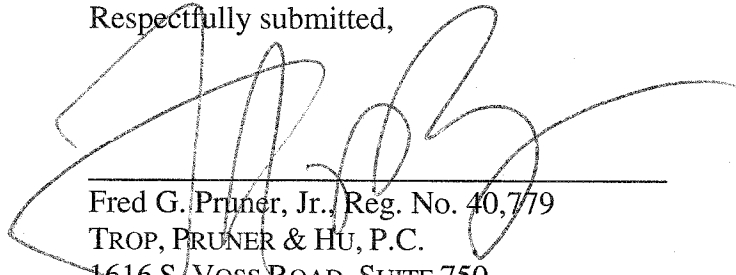
Dependent claims 2-7, 9-15, 17-20 and 25 overcome the § 103 rejections for at least the same reasons as the claims from which they depend.

CONCLUSION

In view of the foregoing, Applicant respectfully requests withdrawal of the §§ 103 and 112 rejections and a favorable action in the form of a Notice of Allowance. The Commissioner is authorized to charge any additional fees or credit any overpayment to Deposit Account No. 08-2025, under Order No. 82099352.

Respectfully submitted,

Date: April 9, 2012



Fred G. Pruner, Jr., Reg. No. 40,779
TROP, PRUNER & HU, P.C.
1616 S. VOSS ROAD, SUITE 750
HOUSTON, TEXAS 77057
713/468-8880 [Phone]
713/468-8883 [Fax]